

**ELEVENTH JUDICIAL CIRCUIT COURT
McLEAN COUNTY, IL**

Instructions for Obtaining Guardianship of a Minor

*Please note that Guardianship and Custody are not the same. **Please read the instructions carefully before beginning the process** to obtain Guardianship of a minor.*

Duties of a Guardian:

A **Guardian of the Person** of a minor is responsible for making arrangements for the minor's care, comfort, health, and education. A guardian makes decisions to give consent to any medical care or treatment the minor may need. The Court will require a guardian to make reports to the Court about the minor's mental, physical, and social condition. The guardian will be required to make reports to the Court about the minor's current living arrangements and any medical, educational, or other professional services the minor has received.

A **Guardian of the Estate** of a minor is responsible for the minor's estate and must care for, manage, and invest the minor's estate; and spend what money is needed for the minor's comfort, support, and education. A guardian may have to file an inventory with the Court within 60 days after the guardian is appointed listing all of the minor's assets. A guardian may be required to deposit all of the minor's money in an account which may only be withdrawn by court order. A guardian may be required to file reports with the Court showing all money received and spent, as well as cash on hand which is part of the minor's estate. A guardian of the estate of a minor must also give a personal bond that that you will responsibly manage the minor's estate. A surety on the bond is required to insure against mismanagement, theft, or other losses. The amount of the personal bond must be double the value of the minor's estate, and the surety must be one and one half times the amount of the estate. In some cases the surety requirement can be waived by the Court.

Getting Started:

It is important to note that all of the statements that you make to the court in writing will be under penalties of perjury, and must be truthful and accurate. Some documents you will be required to submit to the Court may need to be notarized. If you have questions about how or where to find a Notary Public, a volunteer in the Law Library on the 6th floor of the McLean County Law & Justice Center can provide guidance.

1. Before your first court appearance, you must complete the **Petition for Appointment of Guardian for a Minor** form and file it with the Circuit Clerk. The petition must be completed accurately and completely. *You must fill in every blank on the form.* If you are asking the Court to appoint you as Guardian of the minor, you are the petitioner.

- When completing *item 5* on the petition, it is important to note that you must list all of the minor's living relatives in the appropriate spaces on the forms, starting with the closest relation. "Closest relatives" does not refer to geographic distance from the minor, it refers to closest relation to the minor.
- When completing *item 7* on the petition, make sure you include any other guardianships or custody matters that affect the minor.
- When you complete *item 10* on the petition, you will indicate if you are seeking guardianship of the person of the minor, the estate of the minor, or both. Please see the descriptions of duties above to help determine what type of guardianship you are seeking.
- If the minor is over 14 years of age, the Nomination section of the petition is available if the minor wishes to nominate who they want their guardian to be.
- The filing fee for the Petition for Appointment of Guardian for a Minor is \$171.

2. Once you file the **Petition for Appointment of Guardian for a Minor**, the Circuit Clerk will set a court date. When you come to your court date you will need to bring:

- a. ***The minor's birth certificate.*** If you do not have access to the birth certificate you will need to complete the **Order Allowing Petitioner to Obtain Birth or Death Certificate** and bring it with you for the Judge to review and sign. If the Judge signs the order, you will be able to use it to obtain the birth certificate to bring with you to your second court date.
- b. ***The death certificate of any of the minor's parents who are no longer living.*** If you do not have access to the death certificate(s) you may indicate it on the **Order Allowing Petitioner to Obtain Birth or Death Certificate** and bring it with you for the Judge to review and sign. If the Judge signs the order, you will be able to use it to obtain the death certificate(s) to bring with you to your second court date.
- c. ***The Appearance and Consent Petition for Appointment/Discharge of Guardianship for Minor.*** A parent or the current guardian must complete and sign the consent petition. If no parent is living, or the appropriate party will not complete the consent petition, you must send a **Notice of Hearing** form, along with a copy of your completed **Petition for Appointment of Guardian for a Minor** to the non-consenting parent or guardian. If there are neither living parents nor a current guardian, you must send the notice and copy of your petition to the closest adult relative of the minor.

You must have either a completed and signed **Appearance and Consent Petition for Appointment/Discharge of Guardianship for Minor** form, or have sent **Notice of Hearing** as described above when you come to your court appearance. If after a diligent search you cannot locate a living parent of the minor, or the closest living relative of the minor, the Court may authorize service of the petition by publication. If this happens, the Court will instruct you how to proceed.

If it is necessary to establish immediate guardianship (such as, for example, to enroll the minor in school), you may request a temporary guardianship that will expire after a short period of time. If this is the case, you will continue the process for full guardianship during the term of the temporary guardianship.

3. After your court appearance, if the court has agreed to appoint you as the guardian of the minor, you will have to complete an **Oath of Office and Bond**, and you will receive **Letters of Office** which you may use to show anyone who needs to know that you have authority to act on behalf of the minor, and a court order instructing you when and how to file reports on the minor.

If, at your first court appearance, you are not able to provide the Court with all the necessary documents (for example, birth or death certificates), you will be given a second court date when you will return with all of the required documents to complete the guardianship process.

- If you are appointed temporary guardian, you will receive **Temporary Letters of Office**. These will allow you to act on behalf of the minor for a short period of time. You will also be given a date for your second court appearance when you will return with any required documents ordered by the Court. If the Court agrees to appoint you guardian of the minor at the second court appearance, you will be issued **Letters of Office** which you may use to show anyone who needs to know that you have authority to act on behalf of the minor, and a court order instructing you when and how to file reports on the minor.

4. If you are appointed Guardian of the Estate of the Minor, you will receive a court order instructing you when and how to file the required **Accounting** and **Inventory** reports on the estate of the minor.